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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY

BEFORE THE ADMINISTRATOR

IN THE MATTER OF)

CLARKE MOSQUITO CONTROL)
PRODUCTS, INC.,)

Respondent)

Docket No. FIFRA-93-H-05

ORDER SETTING PREHEARING PROCEDURES

As you have been previously notified, I have been designated by order of the Chief Administrative Law Judge, dated May 14, 1993, to preside in this proceeding arising under Section 14(a) of the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §136 1(a), pursuant to Section 22.21(a) of the EPA Rules of practice (Rules), 40 C.F.R. §22.21(a).

Agency policy encouraging settlement is set out in Section 22.18(a) of the Rules, and you may be attempting to settle this matter. Counsel for Complainant is directed to file on or before July 9, 1993, a statement with respect to whether a settlement has been reached or on the status of settlement negotiations.

If the case is not settled by that date, the requirements in this order will meet some of the purposes of a prehearing conference, as permitted by Section 22.19(e) of the Rules.

Accordingly, it is directed that the following prehearing exchange take place between the parties:

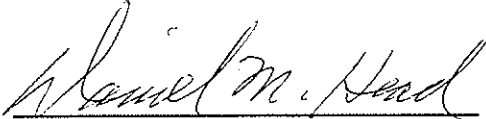
1. Pursuant to Section 22.19(b) of the Rules, each party shall submit the names of the expert and other witnesses intended to be called at the hearing with a brief narrative summary of their expected testimony, and copies of all documents and exhibits intended to be introduced into evidence. The documents and exhibits shall be identified as "Complainant's" or "Respondent's" exhibit, as appropriate, and numbered with Arabic numerals (e.g., Complainant's Ex. 1).
2. The Complainant shall set out how the proposed penalty was determined, and shall state in detail how the specific provisions of any EPA penalty or enforcement policies and/or guidelines were used in calculating the penalty.
3. The parties shall each submit a statement regarding whether the Paperwork Reduction Act of 1980 (PRA), 44 U.S.C. §§3501 et seq., applies to this proceeding, whether there is a current Office of Management and Budget control number involved herein and whether the provisions of Section 3512 of the PRA are applicable in this case.

4. If Respondent intends to take the position that it is unable to pay the proposed penalty, or that payment will have an adverse effect on Respondent's ability to continue to do business, Respondent shall furnish certified copies of Respondent's statement of financial position (or in lieu thereof copies of Respondent's federal tax return) for the last fiscal year.
5. Each party shall submit its views as to the place of hearing. See the Sections 22.21(d) and 22.19(d) of the Rules.

If the case is settled, the Consent Agreement and Final Order signed by the parties should be submitted no later than **August 9, 1993**. If a Consent Agreement and Final Order have not been signed by that date, the prehearing exchange directed above should be made on **August 9, 1993**. The parties will be expected to make this prehearing exchange unless, prior to the due date an extension of time has been obtained pursuant to Section 22.07(b) of the Rules. The parties will then have until **August 30, 1993**, to reply to statements or allegations contained in the opposing party's prehearing exchange.

The original of all statements and pleadings (with any attachments) required or permitted to be filed by this order, shall be sent to the Regional Hearing Clerk and copies (with any attachments) shall be sent to the opposing party and to the Presiding Judge. If photographs are to be submitted in the prehearing exchange, the party submitting such photographs should provide the actual photograph to all parties concerned in the proceeding (copies reproduced on a duplicating machine will not be acceptable). Copies of statements and pleadings sent to the Presiding Judge shall be addressed as follows:

Judge Daniel M. Head
Office of Administrative Law Judges
U.S. Environmental Protection Agency
Mail Code A-110
401 M Street, S.W.
Washington, D.C. 20460


Daniel M. Head
Administrative Law Judge

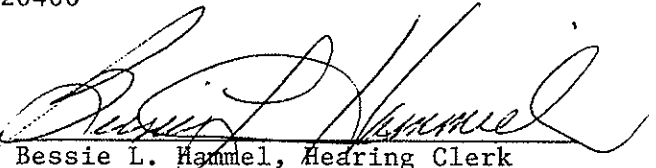
Dated: June 8, 1993
Washington, D.C.

CERTIFICATE OF SERVICE

I do hereby certify that the foregoing Order Setting Prehearing Procedures was filed in re Clarke Mosquito Control Products, Inc., Docket No. FIFRA-93-H-05 and copies of the same mailed to the following:

Joseph A. Tecson, Esq.
Thomas F. Bennington, Jr., Esq.
Counsel for Clark Mosquito Control Products, Inc.
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Chicago, IL 60172

Helene C. Ambrosino, Esq.
Office of Enforcement
Toxics Litigation Division (LE-134P)
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460



Bessie L. Hammel, Hearing Clerk
U.S. Environmental Protection Agency
401 M Street, S.W.
Washington, D.C. 20460

Dated: June 8, 1993